

EXECUTIVE AND LEGISLATIVE INFLUENCE
ON THE UNITED STATES PROGRAM
FOR FOREIGN MILITARY SALES

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EXECUTIVE AND LEGISLATIVE INFLUENCE ON THE UNITED STATES
PROGRAM FOR FOREIGN MILITARY SALES

BY

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CHAPTER I

INTRODUCTION

Purpose of the Study

The United States has been heavily involved in foreign aid since the end of World War II. In recent years, one of the more controversial aspects of U.S. foreign aid has been military assistance grants and arms sales. The bulk of public discourse surrounding this aspect of foreign aid tends to make little distinction between the two related elements.¹ The topic selected for this study is the sales element of the United States program for military assistance which in recent years has become the dominant instrument of the U.S. program. Specifically, the purpose of the study is to focus on foreign policy aspects of the foreign military sales (FMS) program, examining the executive and legislative branch influence on the program as an instrument of national policy. The study serves to trace the emergence of the FMS program and investigate its role as an element of foreign aid.

¹Nicholas de B. Katzenbach "Foreign Aid, an Essential Element of United States Foreign Policy" an address before the New England Jaycee Convention, Hyannis, Massachusetts, September 30, 1967. Reprinted in Department of State Publication 8309, 1967, p. 7.

Research Questions

The following primary and subsidiary questions have been selected for research study in this thesis:

Primary Question

What have been the effects and what are the future implications of executive branch influence and legislative branch restrictions on the United States program for foreign military sales (FMS)?

Subsidiary Questions

1. What have been the significant executive foreign policy trends and the corresponding Congressional legislation that contributed to the emergence of the FMS program after World War II?

2. What has been the impact of executive branch influence on the FMS program in regard to the effectiveness of its response to executive policy?

3. Have the Congressionally legislated restrictions on the conduct of FMS been effective in achieving the intent for which they were enacted; or, is there evidence that the restrictions have produced externalities counterproductive to their intent?

4. What is the outlook for the future of FMS in view of the changing trends in United States foreign policy and the market

environment for arms sales to friendly nations?

Scope of the Study

The study begins during the post-World War II time frame, and the inception of United States military assistance programs. However, the major thrust of the study is concerned with the period of the 1960's, during which time the most dynamic executive and legislative decisions occurred.

The study is limited to an investigation of the foreign military sales program administered under the Department of Defense in coordination with the State Department. It must be emphasized that the Department of Defense (DOD) administration of the FMS program does not constitute the total of United States industry-produced military equipment sold for exports from the United States. Direct U.S. industry-to-foreign customer sales are also undertaken, which have traditionally totaled 20 to 30 per cent of FMS total sales on an annual basis.¹ Consequently, DOD statistics cited in this paper include only the FMS portion of U.S. arms exports. Further, direct commercial sales are not subject to the degree of executive and legislative influence that effects the FMS program; and this influence is the precise area selected for study in this thesis.

¹U.S. Department of Defense, Office of the Assistant Secretary of Defense for International Security Affairs, Military Assistance and Foreign Military Sales Facts, March, 1971, p. 20.

Methodology

Research information providing the documentation for this paper is mainly from secondary research sources. The bulk of the legislative and foreign policy historical references were obtained from Title 22, U.S. Code Annotated; U.S. Code, Congressional and Administrative News, and other legislative source documents from the George Washington University Law Library. Library research was also conducted at the State Department Library, the Library of the Industrial College of the Armed Forces, the U.S. Army Pentagon Library, and the Library of the Naval Supply Systems Command Headquarters in Washington, D.C.

A limited degree of primary research was undertaken which included several interviews with Department of Defense officials. These interview sessions were of a general, rather than in-depth nature, and were concerned primarily with obtaining additional secondary research documents.

The conclusions from the study are primarily deductive rather than inductive. But it must be emphasized that the viewpoint of the writer was tempered by eighteen months personal experience in FMS as a military assistance advisor to the Spanish Navy.

Further, the content and conclusions expressed in this study are undertaken by the writer as a student exercise. They are not to be interpreted as expressing the viewpoint of the Department of Defense or any other governmental agency.

The Problem of Statistics

As previously mentioned, the bulk of the statistics cited are from the Department of Defense unclassified sources. The inherent factor limiting a more thorough statistical analysis in this study is the DOD prohibition as classified information of a total country-by-country breakdown of FMS data. Consequently, the thrust of this paper was by necessity altered to include minimal statistical analysis.

Additionally, statistics cited in other than DOD sources were found to be highly inconsistent when compared from one document to another. The problem arises not only from the classification difficulty, but from the basis from which the statistics were compiled. Some sources listed their data as being comprised of dollar aggregates of articles and services, while others omitted services. Still other sources cited equipment deliveries, while others cited confirmed orders or payments received when referring to FMS totals.

It is therefore important for the reader to be aware of the "problem of statistics" inherent in this paper. The assumption of consistency can only be determined after reviewing the applicable source footnote of the data cited, with Department of Defense sources providing the highest degree of year-to-year consistency throughout the paper.

Organization of the Study

The content portion of the study is contained in Chapters II through V of the paper.

Chapter II presents the topic background information to the study of detailing the executive branch foreign-policy trends and the legislation that led to the emergence of the military sales program as the dominant element of United States military assistance. The objective of the chapter is to provide the answer to the subsidiary research question 1.

Chapter III provides the content of the major thrust of the paper by studying the two most dynamic aspects of the emergence of the FMS program during the decade of the 1960's: The Johnson Administration emphasis on the expansion of the program, and the legislative restrictions that were placed on FMS later in the

decade. The objective of Chapter III is to provide the answers to subsidiary research questions 2 and 3.

Chapter IV examines the current executive policy and legislative climate with the objective of projecting the future outlook for the FMS program. The primary concern of the chapter is to answer research question 4.

The conclusions of the study and the response to the primary research question are presented in Chapter V.

CHAPTER II

FOREIGN POLICY AND THE LEGISLATIVE ENVIRONMENT

The objectives of this chapter are threefold. The first objective is to introduce the reader to the post-World War II development of U.S. foreign aid which led to the emergence of the foreign military sales program as an instrument of national policy. Specifically, the chapter reviews the foreign policy trends of the various presidential administrations with regard to the thrust of their foreign policy, and studies the significant military assistance and sales legislation enacted during the period.

Secondly, Congressional restraints and controls effecting the FMS program are detailed to "set the stage" for the reader's understanding of the environment under which U.S. arms sales are transacted.

Thirdly, the chapter provides the basis for the evaluation of executive and legislative influence on the FMS program that will be studied in Chapter III, and introduces currently proposed legislation with future impact on program to be discussed in Chapter IV.

Post-World War II Economic and Military Aid

In the period immediately following World War II, the U.S. looked forward to a more relaxed situation with regard to international tensions; however, these hopes were shattered as Stalin bluntly stated that international peace was not possible with the capitalist domination of the world economy.¹ This statement was a foreshadowing of events to follow as the deterioration of allied unity in Germany, the Communist backed civil war in Greece, and Russian pressure on Turkey for control of the strategic Dardenelles were typical of the new Russian strategy to pressure the free world and hinder the post-war recovery of the West.²

The Truman Doctrine

Recognizing the threat to the free world, President Truman responded with a new statement of foreign policy for the United States as he addressed Congress on March 12, 1947. His address requested aid for Greece and Turkey in resisting the Russian threat, and became known as the Truman Doctrine. President Truman stated:

¹U.S. Department of the Air Force, Information and Guidance on Military Assistance, 8th edition, (Washington, D.C.: U.S. Department of the Air Force, 1965) p. 2.

²Ibid.

...I believe that it must be the foreign policy of the United States to support free people who are resisting attempted subjugation by armed minorities or by outside pressures...the free peoples of the world look to us for support in maintaining their freedom. If we falter in our leadership, we may endanger the peace of the world, and we shall surely endanger the welfare of our own Nation.¹

The Truman Doctrine provided the basis for the U.S. post-war foreign-policy orientation and initiated the Greek-Turkish aid program. This program and additional military assistance to the Philippines and China were the prelude to the later programs for foreign aid and economic and military assistance which provided the foreign-policy basis for the United States foreign military sales program in later years.

The Marshall Plan

Paralleling the Soviet threat to Greece and Turkey during the period, there was additional concern that the post-war rehabilitation of the West had not shown solid progress in returning the economies of the war-torn countries to their pre-war position. The economic and political chaos that had developed provided propaganda ammunition exploitable by the Soviets in their pronouncement that democracy was inherently inefficient and exploitive. In 1947, the European market place still found food

¹Quoted in Information and Guidance on Military Assistance, 8th edition, p. 3.

clothing, and fuel in short supply, and the Communists were making inroads to the populace which fostered concern in the U.S. that the people might turn to the Communist ideology.¹

Recognizing the need for additional economic assistance to Western Europe in order to counteract this trend, Secretary of State Marshall espoused a plan that became the Economic Cooperation Act in April, 1948. The success of the Marshall Plan, as it became commonly known, in restoring Western Europe to its present prosperity has been well documented. But more importantly to the content of this paper, the plan had the additional benefit of initiating a degree of European political and economic unity that initiated the basis for collective defense and security against the threat of Communism. The successful Marshall Plan became the model for the later military assistance and sales programs.²

Mutual Defense Agreements and Military Assistance

During the period of the Marshall Plan (April 1948 to December 1949) the United States entered into a series of treaties and alliances based on mutual security and bilateral defense in pursuing the objectives of the Truman Doctrine. The most significant of these alliances with respect to military

¹Information and Guidance on Military Assistance, 8th edition, p. 3.

²Ibid.

assistance was the U.S. ratification of the North Atlantic Treaty Organization Charter on July 25, 1949.

On precisely the same day that Congress approved the treaty, President Truman sent a message requesting legislation for the authorization of "military aid to free nations to enable them to protect themselves against the threat of aggression."¹ Although President Truman's request for U.S. military "grant" aid met with less than unanimous approval, Congress responded by passing the requested legislation called the Mutual Defense Assistance Act on October 6, 1949.²

Mutual Defense Assistance Act of 1949

This legislation provided for three types of U.S. military grant aid including:

1. Material and machinery to upgrade European production of weapons without interfering with the economic progress of the Marshall Plan aid.
2. Direct transfers of U.S. military equipments.
3. Technical assistance in production and training of personnel.

¹Information and Guidance on Military Assistance, 8th edition, p. 4.

²Harold A. Hovey, United States Military Assistance, A Study of Policies and Practices (New York: Frederick A. Praeger, 1965), p. 5.

This act served to strengthen the North Atlantic Treaty Organization against a growing Soviet threat as the Russian hopes for an European economic collapse and the winning of her people to the Communist ideology by more peaceful means was stifled by the Marshall Plan.¹ Further, the act initiated the United States military assistance program (MAP) which was the forerunner of the present day foreign military sales program, to be discussed later in this chapter.

Subsequent to the Mutual Defense Act of 1949, additional legislation was passed to improve the management and administration of military assistance programs, as MAP had grown from its beginnings of \$650 million in the Greek-Turkish Aid Program to include the NATO countries, Iran, Korea, Formosa, Indochina, and several other nations in Asia and Latin America by 1950.² In fiscal year 1951 alone, MAP appropriations totaled over five billion dollars.³

Mutual Security Act of 1951

The Mutual Security Act of 1951 placed the responsibility for supervision of all military assistance under the Department

¹Information and Guidance on Military Assistance, 8th edition, p. 5.

²Loc cit., p. 6.

³U.S. Department of Defense, Office of the Assistant Secretary of Defense for International Security Affairs, Military Assistance and Foreign Military Sales Facts, March, 1971, p. 9.

of State. Additionally, the act served to centralize the organizational and administrative operation of MAP by combining the separate country programs under one office in the Department of Defense. Further refinements were made in amendments to the Mutual Security Act of 1951 in 1953 and 1954. The last amendment transferred greater responsibility for military assistance program management from the Department of State to the Department of Defense, but specified that coordinated arrangements with U.S. foreign aid programs would remain with the State Department.¹

The Emergence of the Foreign Military Sales Program

The military assistance program legislation provided in the Mutual Assistance Act of 1951 and subsequent amendments remained the norm throughout the decade of the 1950's. U.S. grant military aid reached a cumulative total of approximately \$26 billion over the period until 1960. During the same period, military aid grants exhibited a declining trend from annual averages of \$5 billion a year in the 1951 to 1953 periods to a level of approximately \$1.5 billion from 1954 to 1960.² The decreasing trend in such grants were generally attributed to two major factors. First, the economic development of the European countries and the grant aid sponsored upgrading of their defense

¹Information and Guidance on Military Assistance, 8th edition, p. 7.

²Military Assistance and Foreign Military Sales Facts, March, 1971, p. 4.

capabilities had resulted in lower appropriations in support of the NATO common defense alliance. Secondly, as the Cold War threat moderated after the Korean conflict, grants were reduced to a lower level and were more widely distributed throughout the world with the forty-two countries receiving aid in 1957.¹ The shift in grant aid to arms sales will be further investigated in Chapter III.

The economic recovery of the Western European continent had lessened the need for U.S. grants for military aid and this same economic emergence allowed the European countries to begin the purchase of weapons hardware and support with their own funds. The realization of the changing posture in U.S. military assistance brought about the need for new legislation which became the Foreign Assistance Act of 1961.

Foreign Assistance Act of 1961

This new Act brought about a total revision of the conduct of both military and economic assistance for the United States, providing a Congressional restatement in the belief that the security of the United States was strengthened by the support of other free nations and that this assistance could be best promoted by providing U.S. supported loan, grant, and sales of

¹Hovey, U.S. Military Assistance, pp. 11-12.

military-related equipment and services.¹

More significantly, the Foreign Assistance Act of 1961 shifted the emphasis for military aid from grants to sales, specifying that U.S. industry-produced weapons could be purchased directly from the manufacturer or through the Department of Defense. Authority for such sales of military equipment had been inherent in the previous Mutual Security Acts of the 1950's; however, the new act indicated the Congressional intent that sales ought to be emphasized, with grant aid receiving lesser emphasis as a national objective.² This factor was a significant revision of the U.S. foreign aid program and, by providing more flexibility in the manner in which arms sales could be undertaken gave the U.S. military assistance program a new direction for carrying out national policy.

Specifically the authorization for the foreign military sales program was continued under the following provisions of the 1961 Act:

...The president may furnish defense articles from the stocks of the Department of Defense and defense services to any friendly country or international organization without reimbursement from funds made available for use under this part, if such country or international organization agrees to pay not less than the value thereof in United States dollars. Payment shall be made

¹United States Code, Congressional and Administrative News, 87th Congress, 1st Session, 1961, Vol. I (St. Paul, Minnesota: West Publishing Co. 1962), p. 483.

²U.S. Congress, Senate Report 2472, Reprinted in 1961, United States Code, Congressional and Administrative News, pp. 2496-2497.

in advance or, as determined by the President to be in the best interests of the United States, within a reasonable period not to exceed three years after the delivery of the defense articles, or the provisions of the defense services.¹

The Act further stipulated that sales were to be authorized to friendly governments after the following prerequisites had been assured by U.S. advisors:

1. The needs of the country for the item had been evaluated.
2. The proposed use of the item had been explained.
3. The technical ability of the country to maintain the equipment had been determined.²

Shift in Policy Emphasis from Europe to Latin America

While arms to European nations increased in tempo with grant aid declining, United States military assistance to Latin America emerged as the focus for U.S. policy. The Cold-War pressures which had been the major concern of President Truman and U.S. Foreign Policy of the 1950's under President Eisenhower, were shifted in the direction of Latin America as a result of the Cuban Revolution.

¹Public Law 87-195; 75 Sta. 424 sec. 504(b), reprinted in 1961 United States Code, Congressional and Administrative News, p. 483.

²United States Congress, Senate Report 2472, Reprinted in 1961 United States Code, Congressional and Administrative News, pp. 2496-2497.

Kennedy "Alliance For Progress"

President Kennedy announced his plan for an "Alliance for Progress" to upgrade the standard of living for all the Americas calling for both private and government funds to reach this objective.¹

However, the "Alliance for Progress" failed to achieve its goals and the critics of the plan claimed its provisions were antagonizing the oligarchic governments of Latin America who failed to join whole heartedly into the plan to provide its benefits to the people.² Accordingly the program stalled, and, during the first three years of the program, government upheavals persisted in Latin America and the growing threat of Castroite Communism became increasingly evident to the United States foreign policy planners.³

In order to counteract this threat and to promote the strengthening of internal security in the face of the Castroite style revolutionary trend, the United States increased its military assistance programs to the Latin Republics by providing counter insurgency training and military equipment.⁴

¹J. Lloyd Mecham, Survey of United States - Latin American Relations, (Boston: Houghton Mifflin Co., 1965), p. 200.

²Loc cit., p. 205-206.

³Ibid.

⁴W. Barber and C. Ronning, International Security and Military Power (Columbus, Ohio: Ohio State University Press, 1969), pp. 37-45.

Congressional Concern For U.S. Policy Toward Latin America

Congressional critics of Military Assistance to Latin America reasoned that United States support of Latin regimes was counter to American interest for several reasons. First they felt that U.S. military aid served to strengthen tyrannical governments opposed to social change. Secondly, there was concern that U.S. grants resulted in little influence on the resolution of international problems, and that the civilian populace grew to resent U.S. support of the oligarchic governments. Thirdly, the governmental takeovers resulted in the expropriation of U.S. business investments and corresponding nationalized takeovers of U.S. interests in several countries. Such nationalization of U.S. investment occurred in Argentinian in 1958, Cuba in 1960, and Brazil in 1962.¹

Accordingly in 1962, Congress initiated legislation that became known as the Hickenlooper Amendment to the U.S. Foreign Assistance Act of 1961. This constraint was to be only the first in a series of Congressional restrictions limiting the flexibility of U.S. aid.

¹U.S. Code, Congressional and Administrative News, 88th Cong., 1st Sess., 1962, Vol. II (St. Paul, Minnesota: West Publishing Co. 1963), pp. 2078-2081.

Foreign Assistance Act of 1962 (Hickenlooper Amendment)

This amendment required the President to suspend U.S. aid to any nation which expropriated United States foreign investments without just compensation. A similar but less binding clause had been included in the Mutual Security Act of 1954 but gave the President an option of suspension in view of the national interest. Further, the Hickenlooper Amendment applied not only to expropriation of U.S. property but to discriminatory taxation practices or repudiated nullified contracts with the United States.¹ The future of U.S. foreign aid would be dependent on the fair and equitable treatment of U.S. investors by the recipient countries.

Foreign Assistance Act of 1963

The basic thrust of U.S. policy toward military assistance and foreign military sales remained relatively consistent in 1963. Annual legislation and review was undertaken on the foreign assistance acts with the bulk of additional restrictions and limitations directed toward Latin America.

The 1963 U.S. foreign aid program was subject to a high degree of Congressional criticism and debate. The results of the

¹U.S. Congress, Senate, Foreign Relations Committee, Foreign Assistance Act of 1962, S. Report No. 1535, 87th Cong., 1st Sess., Reprinted in 1962 U.S. Code, Congressional and Administrative News, p. 2062.

controversy were to cut Congressional appropriations by more than one third from the Kennedy Administration request. These cuts were the most drastic in the history of U.S. Foreign Aid until that time.¹

The Congressional opponents of U.S. foreign aid cited previous U.S. military assistance expenditures in 1962 and 1963 to the former democratic regimes in Ecuador, Guatamala, Honduras and the Dominican Republic, who had been deposed by military juntas. Congressional reasoning followed the premise that these military takeovers in Latin America had been assisted through the use of U.S. provided MAP equipment.² In addition to the budget cut, military assistance to Latin America was placed under a reduced ceiling limitation allowing a maximum of \$55 million per fiscal year through the provisions of 1963 revision.³

Additionally in 1963, the Senate Foreign Relations Committee served to reiterate Congressional interest in deemphasizing U.S. grants for military assistance by providing the following limitation on the use of grant aid for "developing countries":

...No assistance shall be furnished on a grant basis under this act to any economically developed nation

¹Major Legislation -- Foreign Policy," 1963 Congressional Quarterly Almanac, pp. 256-257.

²Ibid.

³22 U.S.C.A. 2319.

capable of sustaining its own defense burden and economic growth, except (1) to fulfill firm commitments made prior to July 1, 1963, or (2) for additional orientation and training expenses under part II thereof during fiscal year 1964 in an amount not to exceed \$1,000,000.¹

The emphasis on the term "economically developed countries" generally included the countries of Western Europe which henceforth could be entitled only to U.S. foreign military sales for defense articles and equipment. The limitation on grant aid provided further impetus for the expansion of the U.S. foreign military sales program.

Johnson Policy For Export Expansion

The 1964 amendments to the foreign assistance act are interpreted as a culmination of the realization of the benefits accruable from the aggressive pursuit of a foreign military sales program that became the trend of the 1960's.

President Johnson expressed deep concern regarding the growing problem of the United States international trade balance deficit. His vigorous emphasis in promoting U.S. exports is contained in his statement to the Cabinet Committee for Export Expansion in April, 1964. He stated in part:

...I think there are few tools that are more important or closer to my own concerns for the future of this country. An increase in overseas trade, ...brings great benefits to every single sector of our American life.

¹22 U.S.C.A. 2370.

They benefit business by providing increased markets for our production. It will benefit the strength of the dollar by improving our balance of payments...it will benefit labor and help in the war against poverty, since every billion dollars by which we increase exports (creates) 100,000 new jobs...At this point in our own history, in world history, we can no longer afford to neglect opportunities for overseas trade. We cannot let those opportunities pass for lack of knowledge, or for lack of appropriate government assistance.¹

The Department of Defense under Secretary McNamara initiated a vigorous arms sales campaign in support of the Johnson Administration's goal for export expansion.

In testimony before the House Committees on Foreign Affairs, Secretary of Defense McNamara stated the benefits to be realized by export arms sales as follows:

...The sale of military equipment, supplies and services to other countries is of considerable importance to the United States at this time. First, it contributes to our economic well-being by providing jobs in this country; Second, the receipts from these sales help to reduce our adverse balance of payments and; Thirdly, the use of common equipment, supplies and services helps to promote the continuing cooperation of U.S. and allied forces.²

¹Lyndon B. Johnson, Public Papers of the President of the United States: containing the Public Messages, Speeches and Statements of the President 1963-1964 (Washington, D.C.: Government Printing Office, 1965), Book I, pp. 117-118.

²U.S. Congress, House, Committee on Foreign Affairs, Hearings, Foreign Assistance Act of 1964, 88th Cong., 2nd Sess., (Washington, D.C.: Government Printing Office, 1964), p. 95.

Foreign Assistance Act of 1964

Congress responded to such statements of policy by approving legislation for credit guarantees to promote private financing of U.S. defense articles, thereby reducing the need for government funds as credit to foreign governments. The intent of this amendment was to facilitate sales by broadening credit terms and to provide a willingness for U.S. industry to extend credit. Further, it was an attempt to encourage other countries to assume a greater burden in providing for the common defense and was consistent with the growing concern in the U.S. regarding the U.S. balance of payments situation.¹

Foreign Assistance Acts of 1965 and 1966

During the period 1965 and 1966, subsequent amendments to the foreign assistance act of 1961 were undertaken to further increase the importance of the foreign military sales program.

In 1965, "a revolving fund" was established to which receipts from the FMS program were to be credited including principal and interest incomes, for the maintenance of a continuous pool

¹U.S., Congress, Senate, Committee on Foreign Relations, Foreign Assistance Act of 1964, S. Report No. 1188, 88th Cong., 2nd Sess., Reprinted in 1964 U.S. Code, Congressional and Administrative News, p. 3848.

of credit money to further facilitate sales and exchange their expansion in order to increase U.S. exports.¹

The 1966 amendments provided no changes to the 1965 bill in regard to arms sales with the exception of an inclusion of a ceiling provision of the combination of grant aid and foreign military sales that could be furnished to Latin American countries. A previous ceiling had applied only to grant aid expenditures. The inclusion of a restriction on the level of sales was due to congressional concern that an arms race was developing in the Latin American Republics perpetuated by an increase in arms purchasing from the United States. A proposal for an amendment to the bill providing for regional arms control and the discouragement of arms races was defeated in the Senate Committee.²

Congressional Restrictions Increase

By 1967, the increasing trend of U.S. foreign military sales had become the subject of widespread congressional opposition.³ The size and scope of the United States FMS program was criticized in Congress with opponents claiming that U.S. arms sales were perpetuating an arms race especially in underdeveloped countries,

¹22 U.S.C.A. 2316.

²22 U.S.C.A. 2322 (a).

³1967 arms sales had reached the level of over two billion dollars per year, "Major Legislation-Foreign Policy" 1967 Congressional Quarterly, p. 959.

thereby retarding the economic development of these countries by forcing the utilization of resources to purchase arms rather than using such funds for the economic betterment of their people.¹

Foreign Assistance Act of 1967

As a result of the widespread criticism of the FMS program, three amendments were enacted that restricted future arms sales with regard to less developed nations.

These restrictions included a reduction in credit extensions for arms sales, restrictions on the sale of "sophisticated weapons" and restricted aid to countries which made "unnecessary military expenditures".²

Typical of the concern that brought about the restrictions enacted in 1967 is evidenced by the following Congressional testimony regarding an arms race in Latin America:

...developments in Latin America in the last year fully justified at least a \$5 million reduction in the ceiling voted by the Senate in 1966. Sale by the United States of 25 A-4B jet fighters to Argentina early last year set off a chain reaction. Chile purchased jet fighters from England, and Peru is now actively shopping for military jets. The end of the chain has not been reached yet.³

¹"Major Legislation-Foreign Policy", 1967 Congressional Quarterly Almanac, p. 959.

²Ibid.

³U.S., Congress, Senate, Committee on Foreign Relations, Foreign Assistance Act of 1967, Report No. 499, 90th Cong., 1st Sess., (Washington, D.C.: Government Printing Office, 1967) Reprinted in 1967 United States Code, Congressional and Administrative News, P. 1885.

In spite of the benefits of arms exports on the U.S. balance of payments problem the following testimony was typical of the shift in Congressional intent in further expanding military sales in order to offset a trade deficit. In a 1966 report the Senate Committee on Foreign Relations reported: "The United States balance of payments is not in such a perilous condition that it has to be salvaged by taking blood money from poorer countries."¹

The 1967 act marked a significant change in direction of the trend of legislation designed to expand military sales. The reduction of the credit sales authority and the restraints on sales of "sophisticated weapons" and on countries spending excessive amounts on military purposes was a sharp contrast to previous authorizations legislated.

FMS Program Policy Redefined

The thrust of the 1967 legislation set the stage for the 1968 Congressional environment, and the Foreign Assistance Act of 1968 was a new departure in legislation for U.S. foreign aid. In addition to the cutting of administration requests for appropriations, the new act failed to include authority for credit arms sales as had been the practice in preceeding years. Consequently,

¹U.S., Congress, Senate, Committee on Foreign Relations, Foreign Assistance Act of 1966, S. Report No. 1358, 89th Cong., 2nd Sess., 1966, p.3.

the Administration was forced to present what it considered the vital FMS legislation in a separate bill, the Foreign Military Sales Act of 1968.

Foreign Assistance Act of 1968

The 1968 bill included three major restrictions designed to limit U.S. military aid utilizing the same rationale presented in earlier legislation in 1966 and 1967.

A ceiling on Latin American grant aid of \$25 million was included, further stipulating that \$10 million of this total was to be made available for use in strengthening coastal patrols to guard against the threat of "Communist or other subversive elements."¹

A second restraint was the Conte Amendment which prohibited the furnishing of "sophisticated weapons systems" to underdeveloped countries without Presidential determination.²

Thirdly, a provision which became known as the Kuchel Amendment authorized the garnishment of U.S. aid to countries illegally seizing U.S. fishing boats inside the 200-mile limit to offset the amount of their U.S. Government paid fines for "illegal fishing".³

¹22 U.S.C.A. 2319 (a).

²22 U.S.C.A. 2319 (d).

³"Fishing Vessel Seizure", 1968 Congressional Quarterly Almanac, pp. 368-369.

In addition, Congressional pressure forced the disclosure of the proposed funding levels on military aid to be presented on an unclassified basis for the first time.

The significance of these restrictions in regard to the foreign military sales program is that these basic provisions in the legislative amendments of the time were carried forward to the Foreign Military Sales Act of 1968 passed in separate legislation.

The Foreign Military Sales Act of 1968

The separate legislation enacted with regard to FMS in 1968 provided a clear statement of national objectives with regard to the foreign military sales program. The act stipulated that although the overall goal for the United States was arms control, it was a continuing U.S. policy objective to enter into mutual defense agreements with friendly nations and permit the sale of U.S. arms and military equipment.¹

This statement of United States policy expressed the Congressional intent that arms sales should be consistent with foreign-aid objectives and within the economic and financial capability of the recipient country. Further the bill stated that

¹22 U.S.C.A. 2751.

arms sales must be consistent with the arms-control objectives so as not to incite an arms race.¹

Paralleling the case of military assistance grant aid, eligibility for the sale of U.S. arms was to be consistent with the following three Congressional guidelines:

1. Presidential determination that the sale would beneficially strengthen the United States security.
2. The recipient country agreed not to transfer the items sold without U.S. approval.
3. Only if the recipient was otherwise eligible under previously legislated restrictions.²

The bill provided the President authority to sell defense items, articles and services to friendly countries or international organizations, who agreed to pay for the items in U.S. currency in advance; within 120 days after delivery; or under specified credit terms within ten years of delivery if such sale was determined by the President to be in the national interest.³

The purposes of such sales were to be limited solely to friendly countries for the purposes of internal security, self-defense within legitimate reasons, and in participation and support of mutual or collective security arrangements with the

¹Ibid.

²22 U.S.C.A. 2753.

³Ibid.

United States. Additionally, the act authorized sales for the purpose of enabling foreign military forces to engage in civic-action projects of social and economic development.¹

In regard to weapons sales to Latin American countries, which was the area of greatest Congressional focus, a ceiling was placed on the total amount of military assistance including sales, authorized at \$75 million. This amount included both the grant aid and foreign military sales aggregate excluding training. A provision for Presidential waiver however, was included if required in the national interest. The impact of the \$75 million ceiling was to effect a limit of arms sales to Latin America to \$50 million. This limitation was inherent as the grant aid ceiling included in the Foreign Assistance Act of 1968 had specified a \$25 million limitation.²

As a further reiteration of Congressional intent four amendments were included in the sales act and two additional restrictions were attached rigidly defining the conduct under which arm sales could be transacted with special emphasis on Latin America.

The Conte Amendment Limiting "Sophisticated Weapons"

The Conte Amendment prohibited the sale to any "developing

¹22 U.S.C.A. 2754.

²Ibid.

country" of sophisticated aircraft, missiles and other such weaponry with the exception of Greece, Turkey, Iran, Israel, The Republic of China, the Philippines and Korea, unless Presidential determination held that such transactions were important to the security of the United States. The amendment provided that the President must report his exercise of such a waiver to the Congress within thirty days of his action.¹

The Pelly Amendment Regarding Seizure of U.S. Fishing Vessels

Paralleling a similar provision of the Foreign Assistance Act of 1968, the Pelly Amendment prohibited the sale of defense articles or services under the Foreign Military Sales Act to countries who seize, fine, or otherwise detain U.S. fishing vessels engaged in fishing from beyond the twelve-mile coastal limit of that country. The amendment, however, again provided for a Presidential waiver should such action jeopardize the security of the United States.²

The Reuss Amendment - Denial of Economic and Social Progress

Two provisions were included in the 1968 act to prohibit the arms sales to less developed countries that:

¹22 U.S.C.A. 2754.

222 U.S.C.A. 2775 (a).

1. Diverted developmental assistance furnished under U.S. foreign assistance acts to military expenditures to a degree which interfered with its economic development.¹

2. In entering into agreements of defense articles from the U.S., such transactions would have the effect of supporting military dictatorships that evidenced denial of social progress to their people.²

Both of these provisions carried the option for a Presidential waiver in the interest of the security of the United States provided he reported the exercise of his determination to Congress within thirty days.

The Foreign Assistance Act of 1969

Congress continued the trend of the reduction of administration requests for foreign aid appropriations in spite of the Presidential request being the lowest in recent history. A two year authority was approved after a long Congressional delay for both Fiscal Years 1970 and 1971 only after an administration study group had recommended the reorganization and revitalization of U.S. foreign policy.³

¹Ibid.

²22 U.S.C.A. 2751.

³"Major Congressional Actions" 1969 Congressional Quarterly Almanac, p. 434.

Congressional testimony regarding the act indicated the strong concern within the legislative branch for the importance of changing national priorities with regard to the war in Vietnam, foreign aid and the need for stressing the resolution of problems of the home front.¹

Evidence of this concern was indicated by the Senate Foreign Relations Committee statement that "the initial focus this year in the committee discussion on foreign aid was not the size or makeup of an aid bill, but whether there should be an aid bill at all."²

The final passage of the two-year authorization carried forward the restrictions of the 1968 act in regard to the grant aid ceilings. Further, an amendment attached to the bill combined the Conte and Reuss Amendments of 1968 Foreign Assistance and Military Sales Acts. This amendment served to further clarify the intent of Congress and strengthen the specific impact of the restraint provision within a more precise definition of purpose.

The amendment stated:

...In order to restrain arms races and proliferation of sophisticated weapons, and to insure that resources intended for economic development are not diverted to military purposes, the President shall take into account

¹U.S. Congress, Senate, Committee on Foreign Relations, The Foreign Assistance Act of 1969, Report No. 91-603, 91st Cong., 1st Sess., (Washington, D.C.: Government Printing Office, 1969), p. 3.

²Ibid.

before furnishing development loans, Alliance loans or supporting assistance to any country under this Act, and before making sales under the Agricultural Trade Development and Assistance Act of 1954, as amended:

- (a) the percentage of the recipient or purchasing country's budget which is devoted to military purposes;
- (b) the degree to which the recipient or purchasing country is using its foreign exchange resources to acquire military equipment; and
- (c) the amount spent by the recipient or purchasing country for the purchase of sophisticated weapons systems, such as missile systems and jet aircraft for the military purposes, from any country.

The President shall report annually to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate his actions in carrying out this provision.¹

Additional restrictions included in the 1969 act provided several new dimensions:

1. A provision was included to withhold a matched dollar amount of economic aid to underdeveloped countries who utilized their resources for the purchase of sophisticated weaponry.²
2. A restriction to limit the number of foreign military students trained in the United States or a maximum number of foreign civilians brought to the United States under the Fulbright Scholars Program (Mutual Educational and Cultural Exchange Program of 1961) of the preceeding fiscal year.³

¹22 U.S.C.A. 2370 (s).

²22 U.S.C.A. 2370 (v).

³22 U.S.C.A. 2311.

These further constraints on military assistance further illustrate the Congressional opinion of the period. A failure to act on the amendment to the Military Sales Act of 1968 providing no annual revision in 1969 was yet another indication of the legislative environment of the period. This failure to legislate the required appropriation for the funding of credit sales prohibited the consumation of credit sales under the foreign military sales program in fiscal year 1970.

The Nixon Doctrine

President Nixon in a report to the Congress on February 18, 1970, presented his goals for United States foreign policy for the decade of the 1970's. His policy statement (the Nixon Doctrine) provided an important emphasis with regard to the United States foreign military sales program as an instrument of national policy.

The Nixon Doctrine stated with regard to military aid:

...in cases involving other types of aggression (ie. non-nuclear) we shall furnish military and economic assistance when requested as appropriate. But we shall look to the nation directly threatened to assure the primary responsibility of providing the manpower for its defense.¹

In its interpretation of the provisions of the Nixon Doctrine, the Department of Defense stated:

¹United States Department of Defense, Office of the Assistant Secretary for International Security Affairs, Military Assistance and Foreign Military Sales Facts, March, 1970, p. 19.

...considerations of self-interest thus point clearly to the desirability of seeing to it that friendly forces have the military equipment and related training they need for their future efforts on behalf of their own security. The more rapidly their capabilities can be improved the sooner it may be possible for the United States to reduce both the monetary and the manpower burden inherent in honoring international obligations...Accordingly, foreign military sales must be substituted for grant aid under the military assistance program whenever a country can afford to pay...¹

· The Foreign Military Sales Act Amendment 1970, 1971

Shortly after President Nixon announced the statement for a new direction in foreign policy for the United States, Congress considered legislation for an amendment to the Foreign Military Sales Act of 1968. The amendment itself was a minor one, changing only the wording of the Pelly Amendment with regard to the seizure of U.S. fishing vessels on the high seas to allow more Presidential flexibility and some slight reductions in credit ceilings allowed for the credit sales appropriations in the succeeding fiscal years.²

But more importantly, the testimony submitted for the record with regard to the amendment proposal indicated that the Nixon Doctrine would require a renewed expansion in U.S. military

¹Ibid.

²U.S., Congress, Senate, Committee on Foreign Relations, Hearing, Foreign Military Sales Act Amendment 1970, 1971, 91st Cong., 2nd Sess., (Washington, D.C.: Government Printing Office, 1970), p. 1.

assistance and sales programs in order to carry out the new "low profile" of United States foreign policy. More flexibility in regard to the legislated restraints surrounding the programs would be required in order to allow friendly nations to assume a fuller burden in providing for their own security.¹

The amendment passed, but not without fanfare, as the controversial Cooper-Church proposal to limit U.S. involvement in South East Asia was rejected having been attached as a rider to the Foreign Military Sales Act Amendment.²

A proposal for a new foreign aid bill entitled the International Security Assistance Act of 1972 is before the Senate at the time of this writing. This new legislation if adopted, will have a definite impact on the foreign military sales program environment of the future.

International Security Assistance Act of 1972 (proposed)

In spite of the new direction in United States foreign policy proposed under the Nixon Doctrine, Congressional criticism continued to provide a legislative environment of stiff opposition. Following the confrontation and failure of the administration's foreign aid bill in June, 1971, and the new proposal presently

¹Loc. cit. p. 54.

²22 U.S.C.A. 8094.

in committee provides the program of President Nixon for the future of U.S. foreign policy for the 1970's.

The new bill marks a new departure from the foreign assistance legislation of the 1960's in that the thrust of the legislation reiterated the Nixon Doctrine philosophy of a "low profile" with regard to U.S. posture in foreign affairs emphasizing the objective:

...that in providing assistance under this act, priority shall be given to the enhancement of the capacity of the recipient nations to assume their own defense burden, including their contributions to regional defense arrangements, and to assisting them effectively to harness their own resources in furtherance of these ends....¹

The broad statement of the Nixon Doctrine objectives included in the 1972 act lend an even stronger emphasis to the increased role of the foreign military sales program in carrying out the objectives of self-support. In testimony on the International Security Assistance Act the following objectives were stated in regard to foreign military sales by Secretary of Defense Melvin Laird.

Secretary Laird requested increased flexibility in regard to FMS restrictions especially toward credit sales and further stated:

¹U.S., Congress, Senate, Committee on Foreign Relations, Hearings, Foreign Assistance Legislation Fiscal Year 1972, 92nd Cong., 1st Sess., (Washington, D.C.: Government Printing Office, 1971), p. 67.

...Many countries once relied on grants of defense articles but are now financially able to meet all or part of their military requirements through foreign military cash and credit sales...On a selective basis, we need to do more however, to speed up the transition process. We believe it is important to push the transition from grants to purchases among other reasons, because a country always looks at its military requirements in a more realistic way when those requirements are accompanied by a bill that has to be paid.¹

The proposed legislation requests broader guidelines for the extension of credit and a reduction in the restrictions that presently exist from previous legislation. The implications for the future of the foreign military sales program presented by the proposed legislation will be investigated in Chapter IV.

Summary

The U.S. program for foreign military sales is an outgrowth of United States foreign aid and military assistance programs that developed subsequent to World War II. The Truman Doctrine was the policy basis that initiated these programs, and the success of the Marshall Plan became the model for future programs for mutual defense and military assistance in the 1950's. The Congressional approval of the Mutual Defense Act of 1949 and the Mutual Assistance Act of 1951 were generally supportive of

¹Loc.cit. p. 333.

the foreign policy goals of President Truman, providing for the military assistance program legislation that served as the prelude to the later program for foreign military sales.

The Foreign Assistance Act of 1961 shifted the policy emphasis for military assistance from U.S. grant aid to sales under the foreign military sales program. This act allowed the President to furnish U.S. military equipment on a sales basis to friendly foreign governments.

The thrust of U.S. foreign policy for the post-World War II military assistance and sales programs had been mainly directed at containing the Communist threat in Western Europe. However, the executive and legislative policy emphasis shifted to Latin America following the Cuban Revolution. President Kennedy proposed an "Alliance for Progress" but failed to achieve the goals of upgrading the standard of living in the Latin American Republics. Further, military dictatorship and governmental take-overs persisted in Latin America in the early 1960's and U.S. military assistance support to these regimes, and the expropriation of American business interests caused Congressional criticism of U.S. aid programs in the Latin countries.

In amending the Foreign Assistance Act of 1961, legislative restrictions were enacted to suspend aid to countries

expropriating U.S. interests abroad (Hickenlooper Amendment 1962). Further, Congressional opposition to executive policy placed ceiling restraints on military assistance programs to underdeveloped countries (1963) that were to be later included in FMS legislation as the arms sales program expanded in the late 1960's.

President Johnson in 1964 stated his emphasis on increasing United States exports in view of a growing problem in regard to the U.S. balance of payments. In support of his goal, Congress cooperated by enacting the Foreign Assistance Act of 1964 which facilitated the sale of U.S. arms abroad by allowing credit terms to buying countries. Subsequent revisions in 1965 further supported the expansion of sales by establishing a "revolving fund" for more flexible credit, but a 1966 amendment placed a restriction on sales to Latin America as to the Congressional concern of a developing arms race.

In 1967, Congressional opposition to the executive foreign aid policy continued to increase with dissatisfaction surrounding the huge increase in the size of the FMS program thought to be perpetuating an arms race in underdeveloped countries, thereby denying economic expansion for their people. The 1967 amendments to the Foreign Assistance Act reversed the trend of

Congressional support for the Johnson Administration export expansion policy by reducing the credit provision for the FMS program, restricting the sale of "sophisticated weapons", and restricting aid to countries which made "unnecessary military expenditures".

Congressional opposition to the conduct of foreign aid and U.S. arms sales reached an impasse in 1968 when Congress failed to approve authority for the continuance of credit sales. The administration was forced to present separate legislation for a clear definition of Congressional intent for the FMS program in the Foreign Military Sales Act of 1968.

The 1968 act restated the objective that U.S. arms sales to friendly nations were in the best interest of the United States, but the act contained four restrictions: first, the Conde Amendment prohibited the sale of "sophisticated weapons" to "developing countries"; second, the Pelly Amendment prohibited the sale of arms to countries seizing U.S. fishing vessels outside the twelve-mile coastal limit; and lastly, the Reuss Amendment prohibited arms sales to "less developed" countries that, diverted U.S. aid to military expenditures, or supported military dictatorships showing evidence of denial of social

progress to their people.

The legislative environment regarding foreign aid continued to be hostile in 1969, and in 1970 President Nixon presented his plan for the future of the U.S. foreign policy (the Nixon Doctrine). The Nixon Doctrine places increased emphasis on the Foreign Military Sales program as an instrument of national foreign policy by emphasizing the increased role of U.S. allies in shouldering the burden for their own defense with "low profile" assistance from the United States. Proposed legislation now before the Senate requests increased flexibility for the U.S. FMS program in order to carry out the goals laid out by the new statement of U.S. foreign policy.

CHAPTER III

THE INFLUENCE OF EXECUTIVE POLICY AND LEGISLATIVE RESTRICTIONS

Chapter II reviewed the foreign policy and legislative trends that led to the emergence of the foreign military sales program as the dominant instrument of military assistance during the decade of the 1960's. The two most dynamic aspects of this emergence were the Johnson Administration emphasis for expansion of the program, and the Congressional criticism that led to restrictions on FMS later in the decade. The purpose of this chapter is to study these two aspects of the program, the objective being to determine the effectiveness of the executive policy decisions and legislative restraints in accomplishing the purpose or intent for which they were formulated.

The Emergence of the FMS Program

As discussed in Chapter II, the United States assumed the dominant leadership role of the Western powers following World War II and sought to rebuild the war-torn countries of Western Europe by strengthening her Alliances with the Free World nations against the threat of Communist expansion.

After the completion of the Marshall Plan for European economic recovery, the subsequent Mutual Defense Acts of the period of the 1950's provided almost \$27 billion in United States military equipment and supplies through the military assistance programs.¹ In contrast to the grant aid assistance, the sale of U.S. defense articles was less than \$5 billion during the same period.²

The reason that sales were not greater during the period of the 1950's was due to several factors. First, the obvious financial limitations of the economies of the rebuilding countries of the West simply did not allow expenditures for the purchase of weapons. They were forced to depend on U.S. grant aid to provide for their own defense and for the support of their mutual-defense commitments. A second reason for the low level U.S. sales was that the Department of Defense pricing policy on articles eligible for sale, specified that the price be based on the replacement cost of a similar item in the DOD inventory.³ For example, a 1940 vintage tank originally built at a cost of \$18,000 was hardly a realistic price to a foreign buyer in the 1950's, who was required to pay \$50,000 for the obsolete model.

¹Military Assistance and Foreign Military Sales Facts
1971, p. 21.

²Ibid.

³Hovey, p. 182.

As a result of this pricing procedure, most of the sales transacted during the period were consummated only because no other source of the desired equipment was available. This seemingly unfair pricing policy probably resulted in the United States actually losing potential sales during the period of the early 1950's.¹

By the late 1950's the former recipients of the U.S. grant aid had become accustomed to American equipment and training and actively sought the continued maintenance and replacement of U.S. produced defense articles on a sale basis. Their demand for these services and equipment was realized, and a pricing policy change was put into effect within the Department of Defense in order to make U.S. arms available at competitive prices.²

In the early sixties the FMS program began to gain in momentum after the broader authority to conduct arms sales had been included in the Foreign Assistance Act of 1961. Further, the post-war shortage of U.S. dollars abroad had slackened, and U.S. gold reserves were starting to decline, adding additional support to the expansion of the FMS program that was recognized by the legislation of the 1961 act.

In assessing the emergence of the foreign military sales

¹Loc cit. p. 183.

²Ibid.

program, Harold A. Hovey stated that the realization of the growing balance-of-payments problem was the greatest single factor providing the incentive for the expansion of the U.S. arms sales program.¹

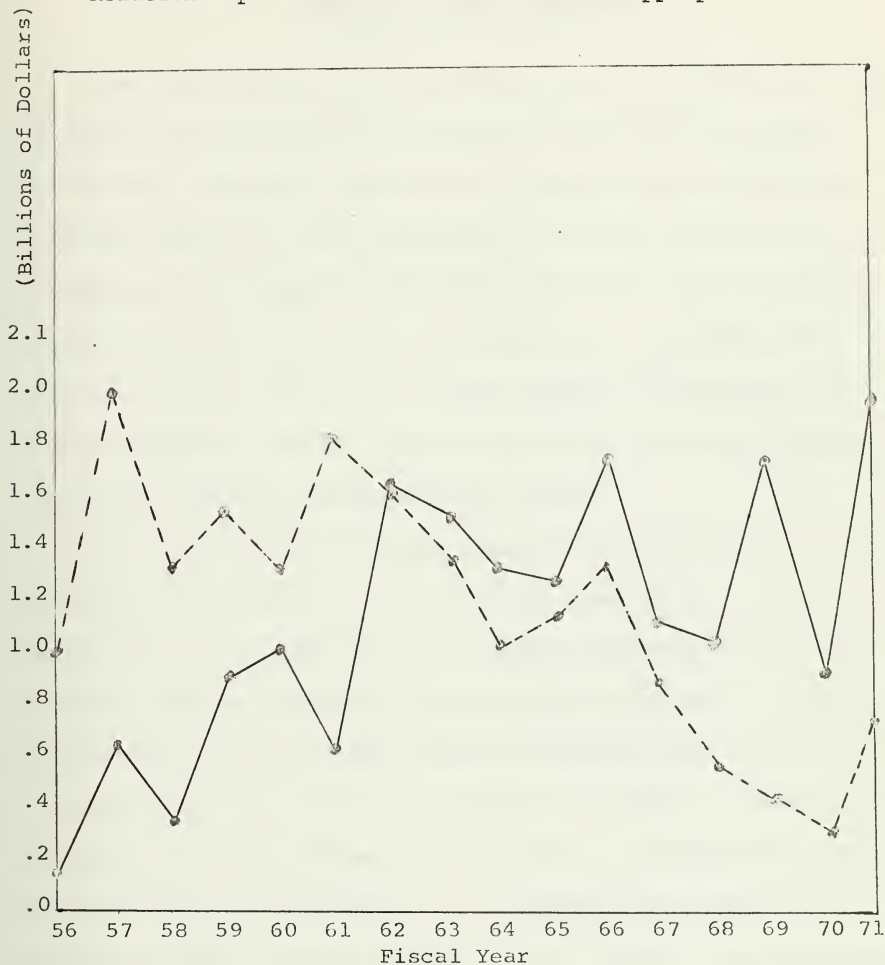
As documented in Chapter II, the Foreign Assistance Act of 1961 defined the U.S. foreign military sales program. But more importantly, the act expressed the intent that the FMS program ought to be emphasized, with grant aid receiving lesser emphasis.

The impact of the 1961 legislation in providing emphasis to the foreign military sales program is depicted in figure 1. This illustration plots the relationship of grant aid appropriations with respect to foreign military sales totals for the fiscal years from 1956 to 1971. The curve depicting FMS rises sharply after 1961 legislation was enacted, while conversely, grant aid appropriations slacken throughout the same period. It is significant to note the relatively steep incline of FMS after the bill was enacted with fiscal year 1962 FMS surpassing grant aid appropriations for the first time. In the fiscal years following 1962, the trend continues, with FMS exceeding grant aid by relatively wide margins after the statement of national policy that the 1961 act provided.

¹Ibid.

Figure 1

Relationship of FMS Orders to Grant Aid Appropriations



— FMS Orders

--- Grant Aid Appropriations

SOURCE: Compiled from U.S. Department of Defense data published in Military Assistance and Foreign Military Sales Facts 1971, with additional information provided by Mr. Josef K. Hoenig, Office of the Assistant Secretary of Defense for International Security Affairs.

Executive Branch Emphasis

The combination of executive-branch foreign policy aligning favorably with Congressional intent in the Foreign Assistance Act of 1961 created an environment of support for the FMS program that resulted in the emergence of foreign military sales as the dominant instrument of military assistance. The continuing expansion of arms sales that was perpetuated throughout the period of the mid-1960's is a prime example of the dynamic results obtainable when the legislative climate is supportive of aggressively pursued administration policy.

In 1964, President Johnson espoused his policy for the expansion of U.S. exports, and Congress cooperated by enacting legislation that assisted in the further expansion of the FMS through credit arrangements, as discussed in Chapter II. The Department of Defense under Secretary McNamara then instituted a program for the active sales promotion of FMS. An investigation of the Johnson-McNamara "hard sell" is a significant topic for the thrust of this paper, as it reflects the impact of executive-branch decision making on the "business" of conducting the FMS program.

The Johnson-McNamara "Hard Sell"

In order to implement the new program for foreign military sales, Secretary McNamara chose an aggressive executive, Henry J. Kuss, Jr. Mr. Kuss was charged with providing the impetus for the promotion of U.S. arms sales, and set out to accomplish his objective by immediately establishing a central office within the Department of Defense for the coordination of FMS activities with U.S. industry. His aggressive campaign had two purposes; promoting U.S. military exports abroad, and convincing the U.S. defense industry of the advantages of the overseas markets.¹ His personal vigor in embarking on his assignment is characterized by the following comment:

...Kuss hadn't been in office very long before he made it patently clear, by banging heads if he had to, that he was there to get something done...it's a compliment to the impressive way Kuss and his staff have picked the program up by its shoe laces and gotten it moving...²

Mr. Kuss stated that the FMS program under his direction had the following three goals consistent with those expressed by the Administration, and supported by Congressional intent in the Foreign Assistance Act of 1961.

These goals were enumerated as follows:

¹"How Industry Sees the Budding Export Market," Armed Forces Management, January, 1965, p. 37.

²Ibid.

...(a) To promote the defensive strength of our allies, consistent with our politico-economic objectives, (b) promote the concept of cooperative logistics and standardization with our allies, and (c) offset the unfavorable balance of payments resulting from essential United States military deployment abroad.¹

Additionally, Mr. Kuss prepared a program in which he forecasted U.S. sales for the ensuing years, projecting that allied nations would purchase U.S.-produced defense equipment and supplies involving 25 per cent of their total defense expenditures. His projection also included a program of sales promotion training for U.S. military personnel serving in advisory posts overseas budgeted at \$500,000 for fiscal year 1965.²

In speaking of the dynamic influence of Mr. Kuss on the FMS program during his period in the Defense Department, a present DOD official reflected that U.S. sales promotion efforts included Pentagon conferences and industry meetings with foreign buyers designed specifically to market U.S. weapons. He stated that U.S. tactics during the period consisted of "selling it... peddling it... and outright wheeling and dealing..."³

Results of the "Hard Sell"

In assessing the impact of the sales-promotion efforts

¹Hovey, p. 193.

²Ibid.

³Joseph K. Hoenig, Department of Defense, Office of the Assistant Secretary for International Security Affairs, private interview held in Washington, D.C., October 15, 1971.

conducted under the direction of Mr. Kuss, it is clear that the FMS program responded dramatically to the "hard sell" efforts. Fiscal year 1964 sales had been approximately \$1.3 billion, compared to the fiscal 1966 level of approximately \$1.8 billion.¹

This trend of increased sales from the pre-1961 period continued, as evidenced from the graph on figure 1, and was an important factor in regard to the U.S. balance of payments problem. During the period through calendar year 1967, it was estimated that military exports were responsible for off-setting 45 per cent of the cost of maintaining U.S. forces abroad, excluding Southeast Asia.² Following fiscal year 1966, a decline in FMS totals was experienced is illustrated in figure 1. This declining trend in sales will be examined in a later section of this chapter.

World-wide Seller's Market for Arms

The personal management success of Mr. Kuss in the expansion of the FMS program has been largely discounted by Kuss himself. In a published interview he explained that the results of his efforts were not particularly due to his "super-salesman" efforts but due to the fact that free-world defense-equipment buyers

¹Military Assistance and Foreign Military Sales Facts 1971, p. 21.

²James L. Trainor, "Can U.S. Maintain the Momentum of its Military Arms Sales", Armed Forces Management, January, 1967, p. 38.

were "super buyers". Kuss pointed out that there was no action undertaken by his office that was not initiated by a foreign government's request that it wanted to buy a specific article from the United States.¹

Additionally, Kuss cited two advantages for the overseas buyer derived from the purchase of military equipment from the United States: First, the U.S. had currently developed and proven weapons systems available for sale. These systems were attractive to foreign buyers because of the cost savings in purchasing a developed system rather than going through the development and procurement expense of designing their own equipment. He stated that Great Britain realized an estimated savings of \$1.5 billion in the procurement of U.S. F-4, F-111, and C-130 aircraft rather than developing their own designs for British Air Force requirements.² A second significant attraction for U.S. defense articles cited by Kuss was the factor that the United States stood behind the equipment it sold with logistical support years after the item had been delivered. Kuss explained that this follow-on supply support was actually the key to U.S. success in arms sales. "Nobody really supports what they sell," said Kuss, "and since the U.S. does, this gives the country an advantage in situations which might not be price competitive."³

¹Ibid.

²Ibid.

³Ibid.

The significant factor relevant to the contents of this paper with regard to the efforts of Henry Kuss, is the fact that his actions were motivated as a result of his response to executive direction. The direct link to executive authority through the line responsibility of the Secretary of Defense provides the understanding of the impact of executive policy.

Executive policy has a direct and positive response concurrent with administration objectives. The time lag in implementation is minimal as the information flow passes directly to the people responsible for carrying out the management of the program. Further, the feedback communication flows directly with and through the specialists concerned with the management of the program.

By contrast, the legislative branch does not have the advantage of the directness, speed, and specialization in carrying out its "check-and-balance" role as does the executive branch. Response time is slow, and the impact of its legislation sometimes requires several years to evaluate its effectiveness.

The purpose of the following section of this chapter is to evaluate the impact of some of the Congressionally legislated restrictions placed on the FMS program. The objective is to compare the examples of the "check-and-balance" restrictions

placed on the FMS program with the effectiveness of the executive branch in carrying out its policy decisions in regard to the FMS program. It must be emphasized that these two areas are not mutually exclusive, since in many cases, the policy questions coincide as discussed in Chapter II. Consequently, the legislative restrictions selected for study are constraints which tended to differ from administration policy, and perhaps the comparison is somewhat unfair due to their specific intent. However, the constraints served to restrict executive flexibility in carrying out the foreign policy of the United States, and the study of the impact experienced compared to the Congressional intent is a major research question for study in this paper.

The Impact of the Congressional Restrictions

As discussed in Chapter II, the trend in executive branch foreign policy following the enactment of the Mutual Assistance Act of 1961 brought about the expansion of the FMS program. During the period 1964 to 1966, the U.S. foreign military sales program expanded rapidly under the "Hard Sell" campaign investigated in the previous section of this chapter. Congressional criticism of the program increased after 1966, as the legislative branch became aware of the broad expansion of the program and

concern for underdeveloped countries' participation in the program became the object of legislative attempts to re-define the United States' objectives for FMS. The Congressional enactment of restrictions on the program that followed were aimed at these underdeveloped countries, primarily the Latin American Republics.

The purpose of the following section is to study the effects of the Congressional restrictions that applied to the FMS program as included in the Foreign Military Sales Act of 1968. The study will focus on the following four constraints with the object of determining the impact of each in terms of the Congressional intent that motivated enactment of the legislation.

The four restrictions selected for study included:

1. The ceiling restriction on the foreign military sales program in Latin America.
2. The prohibition of the sale of "sophisticated weapons" to underdeveloped countries (Conte Amendment).
3. The prohibition of sales to countries who engaged in excessive military expenditures thereby denying economic and social progress to their people (Reuss Amendment).
4. The prohibition of the sale of defense articles and services to countries seizing U.S. fishing vessels outside the twelve-mile limit (Pelly Amendment).

It must be emphasized that, although these restrictions were aimed specifically at Latin America, the legislative environment which precipitated the enactment of these restrictions had a pronounced influence on the FMS program world-wide. As reviewed in Chapter II, these restrictions resulted from Congressional dissatisfaction that the program had expanded too rapidly. Consequently, the same concern that resulted in the enactment of the restrictions toward the program in Latin America, resulted in the reduced FMS total sales figures indicated in figure 1 for the period 1967 to 1970. For example, the falling curve indicated in figure 1 for fiscal year 1970 resulted from the failure of Congress to pass an appropriations bill for the funding of FMS credit sales mentioned in Chapter II. The inability to transact credit sales had the effect of lowering the overall FMS totals for fiscal year 1970.

The Congressional Ceiling Restriction

Chapter II documented the development of ceiling restrictions placed on U.S. grant aid for underdeveloped countries in the Mutual Assistance Act of 1959. Subsequent ceilings were established in the 1966 Act, including an \$85 million ceiling for the FMS program in Latin America. The Foreign Military Sales

Act of 1968 specified that grant aid to Latin America would be limited to \$25 million and the grant aid and FMS aggregate could not exceed \$75 million.

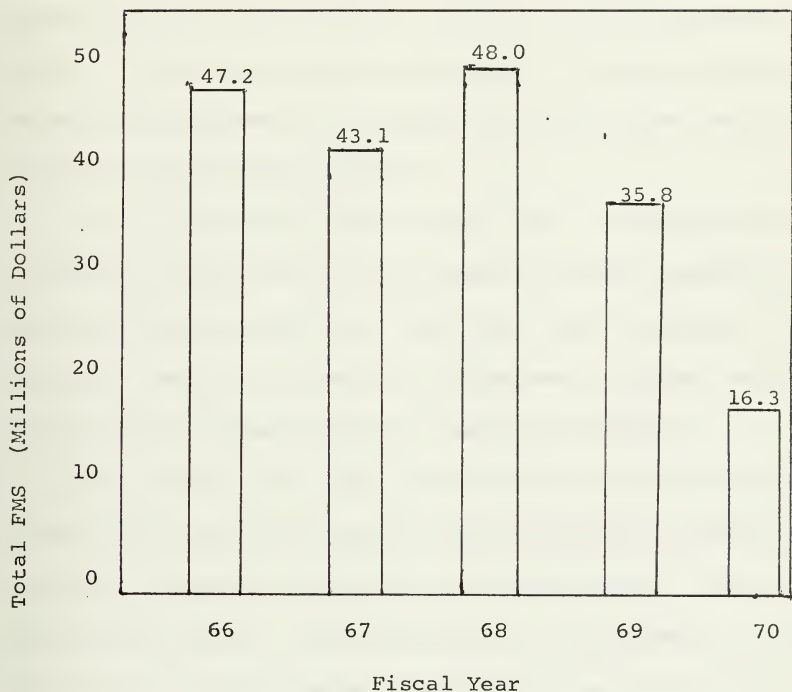
The purpose for the establishment of the ceiling restriction was to reduce the expenditures on military equipment for under-developed countries so as not to inhibit their economic and social development. The effect of this restriction in regard to Latin America for the period fiscal year 1966 to 1970 is traced in Figure 2.

After the ceiling restriction took effect, the FMS total sales volume decreased rapidly over the period. However, it must be emphasized that this decrease was not entirely due to the ceiling restriction but also due to the effect of the Conte and Pelly Amendments, which added their impetus to the declining trend of sales in Latin America. The specific impact of these additional restrictions will be investigated in later sections of this chapter.

Specifically, the major effect of the ceiling restriction was the reduction of arms purchased from the United States under the FMS program rather than the intended reduction of Latin American defense budgets. Geoffery Kemp, in analysing the problem of the ceiling restrictions, states that there is no evidence

Figure 2

Latin American FMS Orders Fiscal Year 1966 Through 1970



SOURCE: U.S. Department of Defense, Office of the Assistant Secretary for International Security Affairs, Military Assistance and Foreign Military Foreign Military Sales Facts, Washington, D.C., March 1971.

that the military budgets in the Latin American Republics have been reduced. On the contrary, the reduction in U.S. equipment available to the Latin Republics has actually caused increased expenditures by these nations to fulfill their defense requirements. It has been necessary for them to actually increase their expenditures because of the need to buy from other sources, especially Britain and France.¹

During the period 1966 through 1969, the Latin Republics purchased 53 per cent of their required defense equipment from the United States and 47 per cent from other countries, mainly European. Before this period of time nearly 100 per cent of their needs have been filled by the United States.²

Consequently, the impact of the ceiling restrictions placed on the Latin American countries had the effect of replacing the purchases formerly brought from the United States with purchases from other nations. The significance of the element of competing nations in the arms-sales market will be investigated in Chapter IV.

Conte Amendment

As documented in Chapter II the intent of the Conte

¹Geoffery Kemp, "Dilemmas of the Arms Traffic," Foreign Affairs, January, 1970, p. 282.

²United States Congress, House, Hearings, Foreign Assistance Act of 1969, H. Report 91-611, 91st Cong., 2nd Sess., 1969, p. 556.

Amendment was to prohibit the sales of "sophisticated weapons," such as jet aircraft and missile systems to underdeveloped countries. The reasoning behind the provision was similar in intent to the ceiling restrictions, but was concerned primarily with the limitation of an arms race in Latin America.

In assessing the effectiveness of the Conte Amendment, it must be understood that the thrust of the legislation provides a penalty to a foreign government in order to serve as an inducement for that country to conform to the externally imposed philosophy of what the United States Congress specifies as proper behavior. It is this basic factor of the external imposition on the sovereignty of another country that has limited the effectiveness of the Conte Amendment must be questioned, especially when viewed in the light of the experience of negotiations with Peru concerning the FMS purchase of F-5 "Freedom Fighter" aircraft. This case has become a landmark example of FMS policy discussions in Congressional testimony.

The Peruvian F-5 Case

In 1965 Peru began negotiations with the United States for the replacement and modernization of the Peruvian Air Force fighter capability with the F-5 aircraft, especially designed for

FMS. However, under the provisions of the Conte Amendment, these negotiations became stalled in 1968, when the F-5 was termed a "sophisticated weapon." The results of the U.S. refusal to continue negotiations on the transaction caused a rift in U.S.-Peruvian relations. But more significantly, after having been frustrated in the attempt to buy from the United States, Peru turned to French arms suppliers and bought the far more sophisticated "Mirage V" aircraft in 1969. In assessing the effect of the Conte Amendment in regard to the Peruvian "Mirage" purchase, Defense Secretary Laird stated before the House Committee on Foreign Assistance:

...Unless the United States is prepared to respond to reasonable Latin American needs for replacement aircraft we can expect consequences. One will be a rise in anti-American sentiment as the Latin Americans see us reneging on our earlier commitments. Secondly, the Latin Americans will feel themselves forced to turn to Europe for their aircraft, which means they would probably be more costly and more sophisticated in character...a result which is neither in their interest nor ours.¹

As indicated in the testimony of Secretary Laird, the Conte Amendment failed to impact the intended target. The U.S. refusal to supply the F-5 to Peru resulted in a counterproductive, increased level of sophistication, with additional detrimental

¹United States Congress House, Foreign Assistance And Related Agencies Appropriations for 1970, H. Report 91-708, 91st Cong., 1st Sess., December, 1969, Washington, D.C.: Government Printing Office, p. 620.

effects on American-Peruvian relations.

A further assessment of the effect of the Conte Amendment was stated by Senator Church in Senate Hearings on Foreign Relations. Church stated:

...Our attempt to impose our will on Latin American governments with regard to the kinds of weapons they should buy has been counterproductive. It represents the kind of interference that greatly irritates the Latin Americans. Their governments are sovereign; they will make their judgments according to their own lights, and they will buy from other countries if not from us.¹

Geoffrey Kemp published the following summation of the impact of the Primary F-5 Case in an article in Foreign Affairs. Kemp focused on the dilemma of the foreign policy problem as follows:

...attempts by both Congress and the Executive to deter Peru from first buying American supersonic jets, then British subsonic jets and then French Mirage V fighters point very clearly to some of the political costs of exerting pressure even with the best of motives. The demand for new jet aircraft in several Latin American countries including Peru, has not been based solely on the whims of prestige-conscious air force colonels. For purely technical reasons, old aircraft must usually be replaced by more advanced types, which tend to be more expensive. A relevant question is, therefore, which aircraft transfers the United States should encourage and which it should oppose. Peru's decision to purchase the French Mirage V can be termed wasteful if measured in terms of military utility. For a total cost of about \$30 million,...the Mirages seem ill-suited to Peru's real security requirements. If U.S. economic aid is to be indirectly used to subsidize weapons procurement, then

¹United States Congress, Senate, Hearing, Committee on Foreign Relations, Rockefeller Report on Latin America, 91st Cong., 1st Sess., November 20, 1969, pp. 44-45.

the weapons should, at least, be those that enhance the security of the country.¹

A final problem regarding the Conte Amendment is the definition of the nebulous term "sophisticated weapons". As specified in the Act, the sale of sophisticated weapons systems such as missile systems and jet aircraft for military purposes, are prohibited to underdeveloped countries.² The problem in determining "sophisticated" presents another dilemma for the State Department decision makers in applying their review of sales requests on a case-by-case basis. Clearly, it is conceivable that certain piston engine aircraft could be outfitted with a higher degree of "sophistication" than a military jet training aircraft. The prohibition based on simply jet aircraft is an example of the difficult and nebulous provision of the act.

Clearly, the effectiveness of the Conte Amendment must be evaluated as questionable if not altogether inappropriate. The intent expressed by Congress in approving the restriction has not been fulfilled in practice, as evidenced in the case of the Peruvian F-5 decision. Further, there is evidence that the amendment is counterproductive to its intent, as increased sophistication in Latin America armament has resulted. Since the Peruvian purchase of the Mirage V, Brazil, Argentina, and

¹Kemp, p. 281.

²Major Legislation - Foreign Policy", 1967 Congressional Quarterly Almanac, p. 989.

Colombia have all purchased the French aircraft.¹

However, differences of opinion continue to exist in regard to the effectiveness of Conte Amendment Provisions. Senator Fulbright in discussing the invocation of the Conte Amendment in the Peruvian F-5 case, congratulated the State Department on its effectiveness in carrying out the intent of the provision.

Fulbright stated:

...I would certainly approve of what I know of our attitude in that instance. Of course, that was a very clear case because we were at the very same time giving them substantial economic aid and to have them buy Mirages when they did not need them seemed the grossest kind of improvidence. It did to me. I thought you (Hon. U. Alexis Johnson, Under Secretary of State for Political Affairs) were right in that case. I hoped you would do it more often.²

The Reuss Amendment

The purpose of the Reuss Amendment, as documented in Chapter II, was to prohibit recipients of U.S. aid from diverting scarce resources into military purposes, thereby denying their people social and economic progress.

In assessing the effectiveness of this amendment in accomplishing the goals set forth in the legislation, the problem of precise measurement of the economic diversion of the resources becomes the critical question. Just as the Conte Amendment

¹Jean Ross-Skinner, "The French Arms Invasion," Dun's, August, 1971, p. 48.

²United States Congress. Senate, Hearing, Committee on Foreign Relations, Foreign Military Sales Act Amendment: 1970-1971. 91st Cong., 2nd Sess., 1970, p. 31.

provided no precise definition of the nebulous term "sophisticated weapons," the Reuss Amendment provides no precise guideline as to what will constitute grounds for the application of the restriction.

In applying the prohibition, the following detailed analysis must be undertaken:

...The President shall take into account (1) the percentage of the recipient...country's budget which is devoted to military purposes, and (2) the degree to which the recipient or purchasing country is using its foreign exchange resources to acquire military equipment. When the President finds that development assistance under this chapter...is being diverted to military expenditures, or a recipient...country is diverting its own resources to unnecessary military expenditures to a degree which materially interferes with its development, the President shall terminate such assistance...until he is assured that such diversion will no longer take place.¹

The inherent fault specification in applying the restriction is the fact that no quantitative guidelines such as the dollar value of diversion, or percentage of Gross National Product are stated in establishing the cut-off prohibition. Consequently, the Reuss Amendment requires an arbitrary type of qualitative judgment in applying the restrictions based on the "diversion of resources to unnecessary military expenditures".

The futility of the legislative exercise involved in the

¹22 U.S.C.A. 2370.

enactment of the Reuss Amendment is evidenced by the fact that the restriction has never been specifically applied to prohibit an FMS transaction, largely because of the required standard of measurement difficulties inherent in the act. Essentially, the impact of the legislation has been nil, and the restriction remaining as a federal statute could only serve as an obstacle to U.S.-Latin American relations.

The Pelly Amendment

The purpose of the Pelly Amendment was to deter countries recognizing a 200-mile fishing territorial boundry from the seizure of U.S. fishing vessels, who recognized only 12-mile territorial limits with their government's backing. When such seizures occur, the provision of the Pelly Amendment requires that the U.S. suspend further FMS program sales for a twelve-month period. This restriction was specifically aimed at the countries of Chile, Ecquador, Peru, and, recently, Brazil, who have decreed the 200-mile limit for the protection of their coastal fishing grounds. The United States has traditionally held that the twelve-mile limit is the only recognizable boundry for coastal waters under International Law. The Pelly Amendment,

therefore, has established a procedure for the protection of U.S. fishermen seized while outside the twelve-mile limit of any country, including the payment of fines assessed under the provision of the Fisherman's Protection Act as amended in 1967.¹

Although the provisions of the Pelly Amendment have been invoked, the restriction has not been successful in aborting the continued seizure of U.S. fishing vessels due to the "punishment" of restricting arms sales to the countries involved. An example of this failure involved the invocation of the Pelly restriction on arms sales to Peru on April 3, 1969, following the Peruvian seizure of a U.S. fishing vessel on February 14, and two additional boats on March 19, 1969.²

A breakdown in U.S.-Peruvian relations did result, however, with Peru canceling the proposed visit of Governor Nelson Rockefeller, who was conducting a study tour of Latin American countries at the request of President Nixon.³ In an effort to remedy the situation, the State Department rescinded the ban on arms sales to Peru in return for a Peruvian agreement to discuss the fishing rights question.⁴

¹United States Congress Senate, Hearings, United States Relations with Peru, 91st Cong., 1st Sess., 1969, p. 59.

²Department of State Bulletin, June 16, 1969, p. 509.

³Ibid.

⁴Major Congressional Action - Latin America. 1969 Congressional Quarterly Almanac, p. 806.

This example is typical of other cases involving Chile and Ecuador, which have also experienced arms-sales bans under the Pelly Amendment. The impact of the use of the restriction has resulted not in the intended solution to the fishing-vessel-seizure problem but only as a bargaining point for diplomatic negotiation. Consequently, the impact of the restriction has been less effective than the intent of the legislation as a deterrent, but it has provided a tool for mediation and bargaining which has assisted in bringing about negotiations on the fishing issue.

Summary

The Foreign Military Sales Program assumed its dominant role in United States military assistance after the provisions of the Foreign Assistance Act of 1961 emphasized FMS over grant aid as an instrument of national policy. During the period of the 1950's, arms sales had not reached higher levels due to the inability of the economies of friendly nations to allow them to purchase arms from the United States, and the unrealistic pricing policy that had been in existence discouraging the sale of equipment in the Department of Defense inventory. In the early 1960's the growing problem of the United States trade deficit added additional

emphasis to the FMS program which resulted in FMS totals surpassing grant aid appropriations after 1962.

The dramatic increase in the FMS program of the mid-1960's was a result of positive executive branch policy that emphasized sales promotion and "hard sell" techniques. Under President Johnson's direction, Mr. Henry Kuss, Jr. coordinated the United States program for foreign military sales, achieving dramatic success in accomplishing the executive-branch priority for expansion of U.S. exports. This success reflected the effectiveness of the executive policy placed into practice given the flexibility for the accomplishment of administration objectives.

In the period of the late 1960's Congress became critical of the FMS program and its rapid expansion, responding by enacting four restrictive constraints to further expansion of the program in the Foreign Military Sales Act of 1968.

A ceiling restriction was enacted to reduce the military expenditures of underdeveloped countries. The ceiling restriction failed to achieve its intended impact, since underdeveloped countries continued spending at the same or higher rates as before the restriction, resulting only in a reduction of United States' sales totals and a corresponding increase in competing nations' sales, especially in Latin America.

The Conte Amendment was enacted with the intent of limiting arms races in underdeveloped countries by prohibiting the sale of sophisticated weapons. The impact of the Conte Amendment failed to achieve its intended purpose and, as evidenced in the Peruvian F-5 case, resulted in counterproductive externalities with an increased level of sophistication arising from the United States' refusal to sell Peru the F-5 aircraft. Further, the Peruvian purchase of the French Mirage V initiated an increased level of sophistication throughout the Latin Reupblics, as other nations followed the Peruvian purchase with their own purchases of supersonic aircraft.

The Reuss Amendment was enacted to prohibit the recipients of U.S. aid from diverting scarce resources to the purchase of military equipment. The impact of the restriction has been nil, as the amendment provides a nebulous formula for invoking the prohibition that fails to provide a precise quantitative standard of measurement.

The Pelly Amendment was intended to provide a deterrent for the illegal seizure of United States fishing vessels on the high seas. The impact of the restriction has failed to stop the repeated seizure of United States fishermen but has been a factor

that has assisted in the negotiation of the fishing rights issue with countries recognizing 200-mile territorial fishing limits.

CHAPTER IV

THE OUTLOOK FOR THE FUTURE

The purpose of this chapter is to examine the current executive policy and legislative climate with the objective of projecting the trend of the foreign military sales program for the immediate future. Specifically, the chapter details the Nixon Administration request for increased flexibility in FMS and examines the changing market environment in regard to the element of growing foreign competition for the program and the increased desire of buying nations for reciprocity in weapons transactions.

The Nixon Request for Increased Flexibility

Chapter II reviewed the increased emphasis placed on the foreign military sales program inherent in the Nixon Doctrine. The administration's bill before Congress at the time of this writing requests increased flexibility for the conduct of FMS transactions, by encouraging direct sales from U.S. industry to friendly nations, increased credit terms, and the easing of ceiling restrictions in order to carry out the "low-profile" emphasis of the Nixon statement for the future of United States foreign

policy.¹

Proposed Legislation

In presenting his plea for the increased flexibility requested in the new bill, Secretary for Defense Laird referred to the past history of legislative restrictions in presenting his argument for reducing the Congressional constraints on the FMS program as follows:

...I was a Member of the Congress when many of these restrictions were imposed, and I fully agreed with the intent that I am sure motivated the Congress in establishing these restrictions several years ago. However, ...time has shown that the intention of these restrictions has been defeated by the realities of the situation. This is especially true in Latin America. Most of the defense equipment in the inventories of these countries has been of World War II vintage and is becoming very expensive to operate and maintain. Understandably, these countries desired to undertake modest modernization programs, but when the governments found that they could not purchase from the United States the armaments they felt were needed for their defense, they turned for their purchases to the countries of Europe. In many cases, they bought weapons that were more expensive, more difficult to maintain and, in overall terms, took more resources away from social and economic development than if they had been purchased from the United States. Also, because of the U.S. equipment already in their inventory, there is a great need to be able to purchase replacement and spare parts from the United States. Therefore, we believe it is essential

¹U.S., Congress, Senate, Committee on Foreign Relations, Hearings, Foreign Assistance Legislation Fiscal Year 1972, 92nd Cong., 1st sess., 1971, p. 337.

that the United States have greater flexibility, as represented by the ceilings for Africa and Latin America, if we are to continue to maintain partnerships formed in past years and to work together for a common purpose and a common defense.¹

The statement of Secretary Laird served to summarize the realities of the experience of the Congressional restrictions applying to the FMS program, and there is evidence that his words were well received in Congress. At the time of this writing, the International Security Assistance Act, S.1657, has passed in the House of Representatives and is moving toward a vote in the Senate after successfully completing the committees of both chambers.²

In earlier testimony, the Administration case for increased credit flexibility for FMS transactions was placed before the House Committee on Foreign Relations by Assistant Secretary of Defense Packard. Mr. Packard emphasized that the foreign military sales program comprised a relatively inexpensive element of our national security as he stated:

...The importance of credit assistance is underscored by the fact that it facilitates the maintenance of a credible deterrent to Communist pressure - external or internal - against countries in which we have vital security interests at minimum cost to the U.S. taxpayer. Nations such as the Republic of China, Iran, and Korea cannot at this time make the immediate cash outlays needed to buy the military equipment we and they consider essential to protect our mutual security interests; and

¹Loc. cit. p. 338.

²The information was received March 6, 1972 in a telephone conversation with the office of U.S. Representative Charles S. Gubser, Tenth Congressional District, California.

they cannot obtain the necessary credit unless it is provided or guaranteed by the U.S. Government. Our assistance makes it possible to amortize the cost of military purchases over several years and thus, in the long run, permit them to pay for a growing portion of their defense requirements without undue burden on their struggling economies.¹

In the same testimony, Mr. Packard emphasized the role of the military assistance and sales program in reducing the United States commitment overseas. He again stated the hope that Congress would support the easing of credit restraints for a more viable role for the FMS program in the future.

His testimony included:

...I believe that the best hope of reducing our overseas involvements and expenditures lies in getting allied and friendly nations to do even more than they are now doing in their own defense. To realize that hope, however, requires that we must continue, if requested, to give or sell them the tools they need for this bigger load we are urging them to assume. That is why in the interest of maintaining an adequate defense posture at minimum cost, the growing use of credit-assisted sales of military equipment...seem clearly indicated for the immediate future.²

The testimony of Mr. Packard proved effective, and one of the results of the successful passage of the Foreign Military Sales Act Amendment 1970-1971 was the increase of the credit restraint on Latin American sales from approximately \$60 million to a ceiling of \$150 million. This legislation was considered

¹Hearings, Foreign Military Sales Act Amendment 1970-1971,
p. 3.

²Loc. cit. pp. 2-3.

essential, as mentioned in Chapter II, since in fiscal year 1970 no Congressional appropriation bill had been enacted for FMS credit, resulting in a backlog of pending sales cases in the program.

Outlook for the New Program

As evidenced by the above arguments and the positive probability that the administration bill will be enacted, it is pausable to conclude that the experience of the FMS program has reached a more mature stage of its development. In the period of the 1960's the emergence of the program under President Johnson was subject to legislative restraints in order to contain its dynamic growth, but the future of the program has now entered a new phase in the development cycle. The experience of the decade of the 1960's has demonstrated the value of the program as an instrument of national policy, and Congress again may be willing to allow greater executive flexibility for the conduct of FMS.

Additionally, the United States balance-of-payments deficit that provided the original emphasis for the emergence of FMS has reached a new level of concern for the Nation. Although the gold flow arguments used in the Johnson Administration for the emphasis of program have not been put forth by the Nixon

statement, it is undeniable that this factor may have muffled the past critics of the program to some degree. The concern for unemployment in the defense industry is another factor that adds positive influence to the passage of the administration's proposal.

Consequently, the future outlook for at least a modest upturn in FMS, seems assured. After the decreasing trend in FMS totals experienced during the late 1960's, and the absence of a credit appropriation in 1970, Department of Defense planners are presently forecasting fiscal year 1972 FMS totals at a record figure of \$2.15 billion.¹

However, a recurrence of the dramatic expansion of FMS that occurred during the Johnson Administration is not foreseen. Presently, the world arms market is far different from what had been the environment during the mid 1960's, and two major factors have emerged with future emphasis on the FMS program. First, the developing defense industries of Europe have produced a new element of competition for the United States; and secondly, the viewpoint of the foreign buyer is changing toward an increased emphasis for the further development of native defense industries by seeking coproduction and the codevelopment of future weapons-systems purchases. The implications of these two factors are

¹Military Assistance and Foreign Military Sales Facts 1971, p. 19.

investigated in the following sections of this chapter.

The Growing Influence of Foreign Competition

The economic and industrial emergence of the Western nations has resulted in the development of a defense industry capability especially in France, Great Britain, Italy, and Germany. This capability was fostered by the United States during the 1950's and 1960's by projects for mutual weapons development involving the sharing of U.S. and foreign technology. Codevelopment included such weapons systems as the MBT 70 tank with the Federal Republic of Germany, and the Crotal and Exocet missiles with France.¹

Because of the development of their own industries, these countries are now less dependent on U.S. weapons systems and are developing arms sales programs of their own. An interesting example of the competition is the aggressive campaign currently being undertaken by the French. France has rapidly gained the reputation of being a master of the "hard sell," far surpassing the efforts of United States programs of the mid-1960's.

¹Hoenig Interview, October 15, 1971.

The French Arms-Sales Effort

In 1965, the French instituted a vigorous entry into the arms market under the emphasis of the late President Charles De Gaulle. De Gaulle realized the export advantages to be accrued from arms sales. He reasoned that if France was to become a super power, she would have to develop her own defense industry by developing weapons technology, thereby gaining earnings and prestige from the sale of weapons equipment. As a result of the De Gaulle emphasis, the French program has seen sales increase from \$570 million in 1965, to \$1.3 billion in 1970, placing her in third place behind the United States and Russia in the volume of arms exports.¹

The highly successful Mirage-series fighter aircraft, the AMX tank, and her sophisticated missile systems have given France a world-wide reputation that is backed by aggressive sales efforts. These marketing efforts have been subject to strong criticism regarding questionable standards of ethics but have stimulated the development of a defense industry employing almost 300,000 Frenchmen with arms sales accounting for 8 per cent of French total export volume.²

The following examples serve to illustrate the French

¹Jean Ross-Skinner, "The French Arms Invasion", Duns, August, 1971, p. 48.

²Ibid.

marketing efforts that have contributed to the increasing element of competition for the U.S. program, and have brought wide spread criticism of French sales tactics.

The obliging nature of the French salesman to sell arms without consideration for restraint is illustrated in the following excerpt:

...While most industrialized countries have observed the U.N. embargo on arms sales to South Africa, France has happily hustled in to fill the vacuum...Nor did the French win any accolades for their role in the Nigerian civil war. First, they supplied the federal government with armoured vehicles and ammunition, then they turned around and supplied Biafra with the anti-tank weapons they would need to protect themselves from the armoured vehicles of the government forces.¹

The French practice of providing "kickbacks, commissions, and entertainment" is discussed in the following comments involving the ethics question:

...The French have shattered the previously accepted level for kickbacks to foreign arms purchasers. Before the French entered the picture, "commissions" were limited to five per cent or, very rarely, ten. But in recent negotiations, some say the kickbacks are discreetly funneled to the foreign purchasing agents and their intermediaries has reached as much as fifteen per cent. "The French are spoiling things," grumbles a scandalized international arms dealer. "Everybody does the entertaining bit, but this is going too far." The French also maintain a discreet but active call-girl operation in Paris. And French arms dealers have shrewdly learned what bills to pick up without offending a customer's pride. Representatives of a poor nation, with

¹Duns, p. 50.

limited expense accounts, will find their luxury Paris hotel suites already paid for, but the oil rich Saudis always cover their own bills at the elegant Georges V...¹

...Says one indignant arms salesman who frequently competes with the French in the Middle East, "We understand that a typical French commission in Latin America is 20%. And I know for certain that they paid a 27% commission when they recently sold Panhard Armoured cars in Saudi Arabia."²

These practices, coupled with low interest rates and flexible long-term credit arrangements, have combined to provide the expansion of the French program that presently exceeds United States sales totals in Latin America by 1,500 per cent.³

Other Nation's Efforts

Great Britain too, has increased her marketing efforts although maintaining considerably more restraint than the current French practices. Britain has adopted a position of aggressive sales tactics in the arms market similar to the tactics of Henry Kissinger during his tenure in the U.S. Department of Defense. One novel British technique has involved the utilization of a converted merchant ship adapted as a floating arms exposition for British weapons equipment. The ship simply steams into foreign markets, and arms salesmen write orders for their products as

¹"France: Arms for Sale", Newsweek, February 14, 1972, p. 36.

²Duns, p. 50.

³Hoenig interview, October 15, 1971.

interested buyers tour the seagoing exhibition.¹

Additionally, Germany, Italy, and Sweden provide a wide range of high-quality products for sale; however, their sales techniques resemble the present United States practice of restricting offerings by carefully evaluating requests for purchase in view of arms control factors. The competition element for the U.S. program arises from the increased number of equipments that these competing nations offer for sale. The increased range of items for sale offers a buying nation more alternatives for decision making, while the United States offerings have become more limited, especially in the aircraft lines.²

The competition element is becoming increasingly more pronounced, and the continuing trend can only provide a more difficult market environment for the United States FMS program of the future.

Trends Toward Coproduction

The second market factor inhibiting the future expansion of the United States program for FMS is a decreased interest by industrialized countries in buying totally fabricated equipment from the United States due to their desire to perform their own

¹Ibid.

²"U.S. Military Exports Facing Lean Year", Aviation Week and Space Technology, March 18, 1969, p. 78.

production and manufacture of weapons systems. Great Britain currently purchases an estimated \$230 million annually from the United States. Present reciprocal agreements for the purchase of British equipment by the United States amount to only 10 per cent of this figure. A United Kingdom Ministry of Defense official pointed out the unfairness of this ratio, adding that future negotiations must include a greater degree of reciprocity for the continuance of U.K. arms purchases from the United States, or the ability of Britain to produce and assemble U.S. designed equipment by British industry.¹

Consequently, a future trend toward increased reciprocity can be expected in order to offset the gold flow concerns for countries such as Great Britain. Further, the interest in developing national defense industries will increase the sale of U.S. technology to involve coproduction arrangements, whereby foreign manufactures will fabricate defense equipments under license of United States manufactures.

Emphasis on Direct Commercial Sales

As previously discussed, the FMS program has traditionally been involved with the sale of Department of Defense inventory items, remaining somewhat detached from involvement with direct

¹Trainor, "Can U.S. Maintain the Momentum of Its Arms Sales", p. 38.

commercial sales efforts between United States industry and foreign governments. In the opinion of the writer, future United States FMS programs will of necessity move into closer relationships in the promotion of these direct sales. Such sales transactions are far more flexible, as they are not subject to the total purview of Congressional restrictions, as is the case with FMS transactions. Such direct sales require only export licenses from the Department of State for consummation and present a viable option for the expansion of arms sales consistent with the "low profile" approach of the Nixon Doctrine. In a January, 1972, foreign-policy statement, President Nixon alluded to the subject of emphasizing direct sales on an industry-to-foreign government basis as being one of the objectives of his plan for United States foreign policy. Surely the option of direct sales, which presently total 20 to 30 per cent of the FMS sales volume, presents an alternative for expansion in the future.¹

Summary

The future of the FMS program is dependent on the outcome of a proposed administration bill which requests increased flexibility for the conduct of arm sales under the "low profile" approach of

¹Military Assistance and Foreign Military Sales Facts, 1971, p. 20.

the Nixon Doctrine. The new legislation entitled "The International Security Assistance Act of 1972," requests the easing of the present ceiling restrictions and other constraints of the program which have served to limit executive flexibility. Although the bill has passed the House, the Senate vote will be subject to the traditional cool response that the "Nixon Doctrine" has experienced.

The FMS program, having proceeded through a rapid expansion period during the Johnson Administration and a decreasing plateau in recent years due to Congressional restrictions, is now entering another phase of its cycle in which world-wide market conditions have changed significantly.

A greater degree of foreign competition has emerged, changing the market environment of a decade ago, and the viewpoint of the foreign buyer has been altered to a position whereby reciprocity and coproduction arrangements are desired.

The most dynamic competition has been from European nations, with the French arms-export program emerging through aggressive sales practices and evidence of questionable standards of ethics.

Future trends for United States involvement will probably involve more reciprocal transactions, coproduction and direct commercial sales which sidestep the Congressional restrictions applying to the traditional program for FMS.

CHAPTER V

CONCLUSIONS

The Emergence of the FMS Program

The development and growth of the FMS program emerged as an instrument of national policy through the interaction of executive branch policy and legislative branch variations of support and restraint, in the period following World War II. Throughout this period, the executive branch generally favored the expansion of FMS efforts, with the legislative climate providing support until the period of the late 1960's when Congressional restrictions halted the further expansion of the program.

The policy statement of the Truman Doctrine provided for the beginnings of military assistance in order to aid United States allies in containing the threat of Communist expansion. The success of the Marshall plan became the model for future aid programs in which a need existed to bolster both economic development and curtail the Communist threat through military assistance. The legislative climate was generally supportive to the early military assistance programs, with President Truman receiving

Congressional approval of the Mutual Defense Act of 1949 and the Mutual Assistance Act of 1951.

The economic emergence of the Western European Nations during the 1950's reflected a decrease of United States military assistance grant aid, and this economic resurgence provided resources which produced a demand for the sales of United States military equipment.

In the late 1950's, a pricing policy change was instituted within the Department of Defense to more realistically provide defense items from DOD inventories for sale to friendly nations. A major factor providing for the expansion of FMS was the Foreign Assistance Act of 1961, which recognized the developing phenomenon of the sales aspect of military assistance and shifted the emphasis of the military aid program to sales rather than the grant aid of the previous period.

The historical basis for the development of the program through the period of the 1960's is not attributed to design, but rather a natural outgrowth phenomenon of post-World War II emergence of United States allies. The dynamic emergence of the program in the mid-1960's however, was primarily the result of the United States balance of payments problem, which prompted President Johnson to further emphasize FMS as a method for

offsetting the U.S. gold flow deficit.

The Influence of the Executive Branch

The executive branch has exerted a dominant influence on the program since its inception following World War II. The executive priority initiated by foreign policy design, and carried out by the Departments of Defense and State, were responsible for the greatest degree of impact on the expansion of the program. The executive influence has been carried out either under the permissive legislation provided by Congress, or under a restrictive climate of limited flexibility which typified the period of the late 1960's.

The Department of Defense in 1964 initiated a sweeping expansion of FMS as a result of executive direction. Presidential requests for flexible administration of the program were granted by Congress, and Secretary of Defense McNamara installed an aggressive executive to institute a "hard sell" campaign of sales promotion for U.S. arms sales. The impact of the executive influence was direct and responsive. The seller's market produced record sales expansion in 1965 and 1966 due to the directness, speed, and specialization inherent in the executive branch administration and management of the program. The objectives set

for the program expansion were exceeded, testifying to the effectiveness in carrying out the specific intent for which the expansion campaign was instituted and the directness of response that the program provided to executive branch policy.

The Influence of the Legislative Restrictions

The influence of the legislative branch in contrast to the executive influence, provided a less direct or secondary impact on the FMS program. The legislative climate allowed executive flexibility when supportive of administration policy and its direct influence on the program can best be seen in cases where the legislative climate inhibited executive flexibility.

Congressional criticism of the executive directed FMS program grew as the broad scope of the expansion became known to Congress. Further, opposition the conduct of the War in Vietnam, a developing arms race in Latin America, the seizure of U.S. fishing vessels, and concern for the military expenditures of underdeveloped countries motivated Congress to limit executive flexibility in the management of the FMS program. The impact of the legislative ceiling restrictions almost totally failed to achieve the intended objectives. When the restrictions became

effective, the major impact was simply the immediate decline of FMS totals to the underdeveloped countries. Contrary to the intent of the restrictions, there is evidence that the defense budgets of these nations remained constant, or actually increased as the countries were forced to turn to European suppliers for their defense equipment needs.

Specifically, the Conte Amendment designed to limit sophisticated weapons by the prohibition of U.S. sales, actually produced an increase in the level of sophistication. After being refused the purchase of U.S. aircraft, several underdeveloped nations purchased highly sophisticated aircraft from European suppliers. This restriction not only failed in its intent, but actually produced counterproductive results by opening a new phase of an arms race in Latin America and proved detrimental to U.S.-Latin American relations.

The Reuss Amendment was intended to limit the diversion of scarce resources into military expenditures thereby protecting the economies and social progress of the people of underdeveloped countries. However, this restriction proved ineffective, as it provided a nebulous formula for application which failed to define a basis for invoking the restriction in quantitative terms.

The Pelly Amendment was enacted to abort the seizure of

United States fishing vessels on the high seas by countries recognizing 200 mile territorial limits. The act failed to stop the continued seizure of U.S. fishermen, but it has been partially successful as a factor in bringing about negotiations on the fishing-rights issue.

The inherent factor contributing to the general failure of Congressional restrictions has been the inability of Congress to exert its will on the decision making of foreign nations. These sovereign governments establish their own priorities and, in spite of the well-meaning intent of the United States Congress, make their own decisions. Katzenbach stated, "If we...were the only arms manufacturer in the world, it would be marvelously simple to sit back and have nothing to do with the international arms traffic. But such is not the case."¹ The failure of the Congressional restrictions is generally attributed to the inability of the United States to exert a forceful influence on the world-wide arms market in order to allow the restrictions to achieve their intent.

The Future Outlook for FMS

The foreign policy statement of the Nixon Doctrine and the Presidential proposal for increased flexibility with regard to

¹Katzenbach Address, p. 7.

arms sales has again placed increased executive branch emphasis on the role of FMS as an instrument of national policy. Although the Congressional opposition element to further expansion of the program continues to exist, there is evidence that the experience of the failure of past legislative restrictions will allow a greater degree of executive flexibility. Undoubtedly the present balance-of-payments problem and unemployment in the U.S. defense industry will help to limit opposition in Congress. However, a recurrence of the dramatic FMS expansion of the period of the 1960's is not projected due to several elements in the current FMS environment. These factors include the increased element of competition in the arms market, the desire of foreign buyers to play a greater role in their own manufacture of weapons systems, and the decreased desire of foreign buyers to be involved in reciprocal trade agreements as a hedge against trade-balance problems.

In spite of the record sales figure projected for fiscal year 1972, FMS total sales are expected to remain relatively constant over the next five-year period. The "low-profile" aspect of the Nixon Doctrine, although encouraging the FMS program, will probably modify its traditional role in order to include increased DOD promotion of direct commercial export-arms sales. In the

past, direct commercial sales have not been emphasized to the fullest extent, and increasing Department of Defense involvement in direct sales will allow the side-stepping of the bulk of the legislative restrictions imposed on the traditional FMS program. Further, it is expected that future U.S. arms sales will include a greater degree of weapons technology exports to friendly nations for the purpose of coproduction.

As in the past, the outlook for the future will continue to depend on the interaction of executive-branch policy and Congressionally legislated guidelines. But so long as the United States remains committed to its basic post-World War II course in foreign aid, the foreign military sales program will continue to exist as an instrument of national policy.

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